

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BUTTE DIVISION

UNITED STATES OF AMERICA,

Plaintiff, .

vs.

JAMES EDWARD MITCHELL,

Defendant.

CR 04-11-BU-DWM-3

ORDER

On March 5, 2024, United States Magistrate Judge Timothy J. Cavan entered Findings and Recommendations with respect to the disposition of the revocation proceedings stemming from the January 29, 2024 amended petition for revocation of Defendant James Edward Mitchell's supervised release. (Docs. 353, 359.) The amended petition alleges four violations: (1) admitted use of and positive urinalysis test for methamphetamine on three occasions; (2) failure to comply with substance abuse treatment requirements; (3) failure to comply with substance abuse testing requirements on three occasions; and (4) use of a *whizzinator* during a urinalysis test. (See Doc. 353.) At a final revocation hearing on March 5, 2024, Mitchell admitted to all the allegations in the amended petition. (*Id.* at 3.) Based on those admissions, Judge Cavan found that Mitchell committed the violations alleged in the petition and recommends that supervised release be

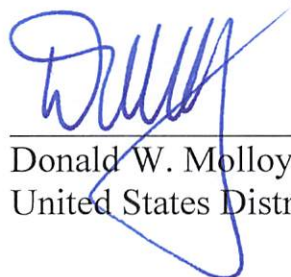
revoked and that this Court sentence Mitchell to a custodial sentence of 12 months, followed by no supervised release. (*Id.* at 7.)

Neither party has filed objections. Failure to object waives the right to review. Fed. R. Crim. P. 59(b)(2). But consistent with the Court's "full authority" to review the Findings and Recommendations under any standard it deems appropriate, *Thomas v. Arn*, 474 U.S. 140, 154 (1958), the Court reviews for clear error. Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000). Finding no clear error in Judge Cavan's conclusion that the defendant violated the conditions of his release in the manner set forth in the amended petition, and that the defendant's supervision should be revoked, the Court adopts those findings and recommendations. (*See* Doc. 359.)

Accordingly, IT IS ORDERED that Judge Cavan's Findings and Recommendation, (Doc. 359), is ADOPTED IN FULL.

IT IS FURTHER ORDERED that the defendant's supervised release is revoked. Judgment will be entered by separate document.

DATED this 15<sup>th</sup> day of March, 2024.



Donald W. Molloy, District Judge  
United States District Court